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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/334,978	06/17/1999	JOHN C. WEBBER	1365-021C	5936

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EXAMINER

PASS, NATALIE

ART UNIT PAPER NUMBER

3626

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/334,978

Applicant(s)

WEBBER ET AL.

Examiner

Natalie A. Pass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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DETAILED ACTION

*Notice to Applicant*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 February 2003 has been entered.

2. This communication is in response to the Request for Continued Examination and amendment filed 05 March 2003. Claims 1-26 remain pending. Claims 1, 11, 18 and 21 have been amended.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 4, 9-13, 18-19, 21, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al., U.S. Patent Number 5, 715, 448 in view of Shavit et al., U.S. Patent Number 4, 799, 156, and further in view of King, Jr. et al, U.S. Patent Number 5, 319, 542.

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(A) As per claims 1, 11, 18, and 21, Suzuki teaches an electronic shopping system and method, comprising a first network connection between a first merchant computer (Suzuki; Figure 1, Item 10 – Apparel Manufacturer A) and a network host computer (Suzuki; Figure 1, Item 52, column 4, lines 22-23), said first connection for transmitting product information (Suzuki; Figure 2, column 3, lines 10-11) to said network host computer in accordance with a first type of network connectivity.

Suzuki also teaches a second network connection between a second merchant computer (Suzuki; Figure 1, Item 10 – Apparel Manufacturer B) and said network host computer, said second connection for transmitting product information to said network host computer in accordance with a second type of network connectivity.

Suzuki further discloses a database at said network host computer (Suzuki; see at least Figure 1, Item 53, column 4, lines 12-16, Figure 4) for storing said product information from said first merchant computer and said second merchant computer.

Suzuki also discloses a first computer program at said network host computer for assimilating or processing said product information (Suzuki; Figure 3, column 5, lines 6-9) and a third network connection between said network host computer and a customer computer (Suzuki; Figure 1, Item 20) said third connection for transmitting said assimilated or processed product information to said customer computer (Suzuki; Figure 3, column 5, lines 10-16) and for transmitting real time updates (Suzuki; column 5, lines 31-32, 47-48) to said product information, said real time updates obtained in accordance with said first network connection and said second network connection.

Suzuki also teaches establishing a connection between a customer computer and a host computer in communication with said database, said customer computer adapted to display information received from said host computer (Suzuki; column 4, lines 22-29, Figure 2), receiving at said host computer a request from said customer computer for product information from said

database (Suzuki; column 8, lines 59-64, Figure 9, Item S12), and displaying said assimilated or processed product information at said customer computer (Suzuki; column 9, lines 1-6).

Suzuki discloses a system and method comprising product information not only from a first and second merchant computer but also from a plurality of merchant computers, a plurality of connections between said plurality of merchant computers and a host computer (Suzuki; Figure 1, Items 10, 30, 40).

Suzuki fails to explicitly disclose these limitations in accordance with different types of network connectivity.

Shavit teaches an electronic shopping system and method which supports connections in accordance with different types of network connectivity (Shavit; see at least Figure 1, Items 74a-i, Item 79, column 5, lines 39-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the electronic shopping system and method of Suzuki, to include connections in accordance with different types of network connectivity, as taught by Shavit, with the motivation of providing an interactive business transaction processing system permitting controlled on-line interactive concurrent electronic access to various members of an industry, to freight, financial, and related services, and to operational and commercial information data bases and computing services and to provide a system for interactive on-line electronic communications and processing of business transactions between a plurality of sellers and a plurality of buyers (Shavit; column 2, lines 5-19).

Claims 1, 11, 18, and 21 have been amended to include the recitations of "for display in one presentation distinguishing said product information from said first merchant computer from said product information from said second merchant computer" and "for display in one

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presentation at said customer computer distinguishing said product information from said first merchant computer from said product information from said second merchant computer" and "to distinguish said product information from said first merchant computer from said product information from said second merchant computer" and "for display in one presentation distinguishing said product information from said first merchant computer from said product information from said second merchant computer" on lines 11-13 and lines 14-16 and lines 16-18 and lines 9-11 respectively.

Suzuki and Shavit fail to explicitly disclose a system and method comprising assimilating product information from said database in accordance with said request from said customer computer for display in one presentation at said customer computer distinguishing said product information from said first merchant computer from said product information from said second merchant computer.

King teaches a system and method comprising assimilating product information from said database in accordance with said request from said customer computer for display in one presentation at said customer computer distinguishing said product information from said first merchant computer from said product information from said second merchant computer (King; column 1, lines 35-41, column 2, lines 1-11, column 7, lines 35-37).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the collective teachings of Suzuki and Shavit, to include a system and method comprising assimilating product information from said database in accordance with said request from said customer computer for display in one presentation at said customer computer distinguishing said product information from said first merchant computer from said product

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information from said second merchant computer, as taught by King, with the motivation of providing the purchaser a competitive shopping tool by offering comparative information on products offered by various suppliers simultaneously displayed, which would facilitate item selection (King; column 1, lines 35-41, column 2, lines 1-11).

(B) Regarding claims 3, 4, 10 and 26, Suzuki, Shavit and King teach the electronic shopping system and method as analyzed and disclosed above, wherein said customer computer utilizes an information management interface (Suzuki; Figure 1, Item 51B) to simplify communication between said customer computer and said network host computer and wherein said customer computer utilizes said second computer program to further process said product information (Suzuki; column 9, lines 31-38) and wherein said real time updates to said assimilated or processed product information at said customer computer are obtained in response to a customer computer request for updated product information (Suzuki; Figure 9, Item S12, column 8, lines 61-63), (King; column 1, lines 35-41, column 2, lines 1-11, column 7, lines 35-37).

(C) Regarding claim 12, Suzuki, Shavit and King teach the system and method disclosed above further comprising generating a display of assimilated or processed product information in response to real time changes to product information from said first merchant computer and said second merchant computer (Suzuki; column 5, lines 30-31, 47-48), (King; column 1, lines 35-41, column 2, lines 1-11, column 7, lines 35-37).

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(D) Regarding claims 9, 13, 19 Suzuki, Shavit and King teach the system and method disclosed above wherein said first type of network connectivity and said second type of network connectivity are selected from the group of TCP/IP or SNA connectivity (Shavit; column 5, lines 39-65).

5. Claims 2, 14, 15, 22, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, U.S. Patent Number 5, 715, 448 in view of Shavit et al, U.S. Patent Number 4, 799, 156, and King, Jr. et al, U.S. Patent Number 5, 319, 542 as applied to claims 1, 11, and 21 above, and further in view of Atcheson, U.S. Patent Number 5, 583, 763.

(A) As per claims 2, 14, 15, 22, 23 Suzuki, Shavit and King disclose an electronic shopping system as discussed in the analysis of claims 1, 11, 18, and 21 above.

Suzuki, Shavit and King fail to expressly disclose an electronic shopping system wherein said first network connection and said second network connection further comprise a network connection between said first merchant computer and a regional host computer; a network connection between said second merchant computer and said regional host computer; and a network connection between said regional host computer and said network host computer, wherein said regional host computer receives said product information from said first merchant computer and said second merchant computer and transmits said product information to said network host computer.

Atcheson teaches a network connection between said first merchant user computer and a regional host computer (Atcheson; Figure 1, Item 110, column 3, lines 15-24) and also a network



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connection between said second merchant user computer and said regional host computer (Acheson; Figure 1, Items 108, 110, 104, column 3, lines 15-24). Acheson also discloses a regional host computer adapted to facilitate said plurality of network connections between said plurality of merchant computers and said host computer (Acheson; Figure 1) and wherein said product information is assimilated or processed at said regional host computer (Acheson; column 3, lines 43-49, column 4, lines 37-42).

Acheson also teaches a network connection between said regional host computer and said network host computer, (Acheson; Figure 1, Item 106) wherein said regional host computer receives said product information from said first computer and said second merchant computer and transmits said product information to said network host computer (Acheson; Figure 1, Item 110, column 3, lines 15-38, Figure 2, column 4, lines 32-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system and method of Suzuki, Shavit and King to utilize connections to regional host computers in storing and transferring product information, as taught by Acheson, with the motivation of adding functionality and efficiency purposes. For example, a regional host is able to act as a "front end" to host processing stations, to perform input and output (I/O) functions for each of the multiple terminals connected to it, to operate as a communications control station between user terminals and the host processing station, to possibly provide local storage for users, and to provide services to smaller groups of users on local networks, allowing more efficient and effective processing of information (Acheson; column 3, lines 6-50).

6. Claims 5-8, 16-17, 20, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, U.S. Patent Number 5, 715, 448, in view of Shavit et al, U.S. Patent Number 4, 799,

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156 and King, Jr. et al, U.S. Patent Number 5, 319, 542 as applied to claims 1, 11, 18 and 21 above, and further in view of Filepp, U.S. Patent Number 5, 347, 632.

(A) As per claims 5, 7, 16-17, 24-25, Suzuki, Shavit and King disclose an electronic shopping system and method as discussed in the analysis of claims 1, 11, 18, and 21 above.

Suzuki, Shavit and King fail to explicitly disclose a system and method wherein said first network connection comprises a switch in communication with said first merchant computer and said network host computer, said switch adapted to assimilate said product information from said first merchant computer and to transfer said product information to said network host computer and wherein said second network connection comprises a switch in communication with said second merchant computer and said network host computer, said switch adapted to assimilate said product information from said second merchant computer and to transfer said product information to said network host computer.

Filepp teaches wherein said first network connection comprises a switch in communication with said first merchant computer and said network host computer, said switch adapted to assimilate said product information from said first merchant computer and to transfer said product information to said network host computer and wherein said second network connection comprises a switch in communication with said second merchant computer and said network host computer, said switch adapted to assimilate said product information from said second merchant computer and to transfer said product information to said network host computer (Filepp; see at least Figure 1, Figure 2, column 1, lines 25-35, column 4, lines 19-42,

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column 5, lines 3-6, column , lines 28-61, column 7, lines 13-23, column 23, lines 31-36, column 24, lines 22-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system and method of Suzuki, Shavit and King to include wherein said first network connection comprises a switch in communication with said first merchant computer and said network host computer, said switch adapted to assimilate said product information from said first merchant computer and to transfer said product information to said network host computer and wherein said second network connection comprises a switch in communication with said second merchant computer and said network host computer, said switch adapted to assimilate said product information from said second merchant computer and to transfer said product information to said network host computer, as taught by Filepp, with the motivation of permitting a very large number of users to obtain access to a large number of applications which include interactive text/graphic sessions that have been created to enable the users to obtain information and transactional services, and permitting the data and programs necessary to support applications including interactive text/graphic sessions to be distributed over a computer network to enable the user to obtain information and conduct shopping events (Filepp; column 2, lines 22-50).

(B) As per claims 6, 8, 20, Suzuki, Shavit, King and Filepp disclose an electronic shopping system and method as discussed in the analysis of claims 1, 11, 18, and 21 above wherein said first and second network connections are packet switch network, Ethernet, or

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modem or dial-up connections (Shavit; column 1, lines 44-60), (Filepp; column 7, line 64 to column 8, line 2, column 94, lines 29-41).

*Response to Arguments*

7. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 05 March 2003 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 05 March 2003.

(A) At pages 6-9 of the 05 March 2003 response, Applicant argues that the newly added features in the 05 March 2003 amendment are not taught or suggested by the applied references.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 05 March 2003 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Suzuki, Shavit, King, Atcheson, and Filepp, based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action (paper number 7), and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references Johnson et al, U.S. Patent Number 6, 023, 683 and Daniel, Jr et al, U.S. Patent Number 4, 972, 504 teach the environment of online real time shopping and product comparison.

Johnson et al, U.S. Patent Number 6, 023, 683 teaches electronic sourcing, displaying and comparing product information online.

Daniel, Jr et al, U.S. Patent Number 4, 972, 504 teaches obtaining retail data on a real time basis utilizing dial-up or switched connectons to notes on x.25 packet switched data communications networks.

9. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington D.C. 20231**

or faxed to: **(703) 305-7687.**

For informal or draft communications, please label  
"PROPOSED" or "DRAFT" on the front page of the  
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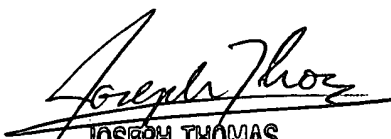
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (703) 305-3980. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (703) 305-9588. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

*NP*

Natalie A. Pass

May 16, 2003

  
**JOSEPH THOMAS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3800**